

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: _____ DATE FILED: 11/16/10
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ROBIN BENTON,	:	10 Civ. 3338 (SHS)
	:	
Plaintiff,	:	
	:	
-against-	:	<u>ORDER</u>
	:	
CARLTON SPILLER and FREDERICK GOOD,	:	
	:	
Defendants.	:	

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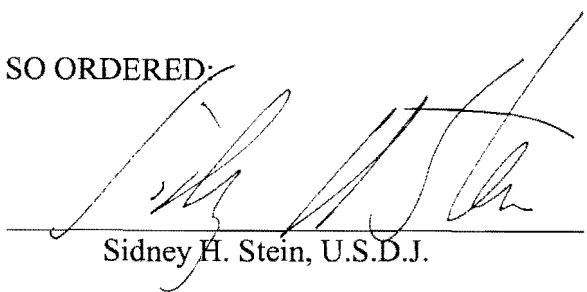
SIDNEY H. STEIN, U.S.D.J.

On October 29, 2010, Magistrate Judge Ronald L. Ellis issued a Report and Recommendation recommending that *pro se* plaintiff's motion to remove this case from this jurisdiction and remand it to the appropriate state court be denied as there is no prior court to remand to, and that the case be dismissed for lack of diversity jurisdiction. To date, no objections have been received from plaintiff. After a *de novo* review of the Report and Recommendation,

IT IS HEREBY ORDERED that Magistrate Judge Ellis' Report and Recommendation is adopted, plaintiff's motion for remand is denied, and this case is dismissed without prejudice to plaintiff's ability to refile his claim in state court, if he so chooses.

Dated: New York, New York
November 16, 2010

SO ORDERED:



Sidney H. Stein, U.S.D.J.